

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES of AMERICA,

4 -against-

16 Cr. 832 (KMK)

5 NICHOLAS TARTAGLIONE,

6 Defendant.

7 -----x  
8 United States Courthouse  
9 White Plains, New York

10 April 26, 2017

11 B e f o r e:

12 THE HONORABLE KENNETH M. KARAS,  
13 District Court Judge

14 A P P E A R A N C E S:

15 JOON KIM  
16 Acting United States Attorney for  
17 the Southern District of New York

MAURENE COMEY

17 MICHAEL GERBER

Assistant United States Attorneys

18  
19 BRUCE BARKET

20 MARK DE MARCO

ANTHONY RICO

21 AIDA LEISENRING

Attorneys for Nicholas Tartaglione

1 THE CLERK: The Honorable Kenneth M. Karas presiding.  
2 United States of versus Nicholas Tartaglione, 16CR832.

3 Counsel, state your appearances.

4 MR. GERBER: Good morning, your Honor. Maurene Comey  
5 and Michael Gerber for the government.

6 THE COURT: Good afternoon to you both.

7 MR. BARKET: Good afternoon. Bruce Barket, Aida  
8 Leisenring, Anthony Rico and Mark De Marco for Mr. Tartaglione.

9 THE COURT: Good afternoon to you all.

10 MR. DE MARCO: Good afternoon, your Honor.

11 MS. LEISENRING: Good afternoon.

12 MR. RICO: Good afternoon.

13 THE COURT: Please be seated.

14 So what's the update?

15 MS. COMEY: Your Honor, the latest from the lab is  
16 that most of the testing has been completed and is undergoing  
17 review so that a final report can be issued. The only testing  
18 that is still ongoing is ballistics testing which has been  
19 initiated but needs more time to complete. I am hopeful within  
20 a month we will have those reports, but I cannot put a deadline  
21 on it because I'm at the will of Quantico at this point.

22 THE COURT: Okay. I know you're pressing as best you  
23 can. They, of course, tell you they've got a lot of work.

24 MS. COMEY: Yes, your Honor.

25 THE COURT: So once that's done, what's going to be

1 left on discovery?

2 MS. COMEY: Nothing to our knowledge, your Honor.  
3 Although, obviously, if we find anything else that is  
4 discoverable, we will turn it over promptly.

5 THE COURT: All right.

6 MR. BARKET: I think there is a -- there was talk of  
7 a further work by medical examiner on, by the government at  
8 least, on at least one of the victims. I don't know if that's  
9 going to happen.

10 THE COURT: Let's inquire. Yes.

11 MR. BARKET: And one other. There was a gentleman  
12 involved in the case in some capacity, Mr. Benderoth I believe  
13 is his name, and I understand his car was to be searched or his  
14 vehicle was to be searched for some forensics. There's at  
15 least a warrant we saw. So I guess there would be some test  
16 results from that as well coming back.

17 THE COURT: Okay.

18 MR. GERBER: May we have one moment, your Honor?

19 THE COURT: Yes, of course.

20 (Counsel confer)

21 MS. COMEY: Your Honor, with respect to both of those  
22 issues, at this point there's nothing to produce. To the  
23 extent that something does come out of the car that is  
24 discoverable, we will certainly turn it over. With respect to  
25 the autopsies, there is one victim who the government may seek

1 to have further examined. If the government elects to do that,  
2 we will absolutely turn anything that comes from that over to  
3 the defense, but at this point there's nothing else to turn  
4 over.

5 THE COURT: Okay.

6 MR. RICO: Judge, on the issue of Mr. Benderoth, what  
7 I was conferencing with the government about is that the issues  
8 related to Mr. Benderoth are a little more complex than just  
9 that issue, and I didn't want them to feel cabined into  
10 responding in that way. But we had planned to give the  
11 government a specific demand with specific items to respond to,  
12 and I'm sure they'll respond to them.

13 THE COURT: Okay.

14 MS. COMEY: Yes, your Honor, we will.

15 THE COURT: Obviously, I'm going to assume that you  
16 all are going to try to work out informally any unresolved  
17 issues, and if you need a referee, you'll let me know.

18 MR. RICO: That's correct, your Honor. Yes.

19 THE COURT: All right. So given that representation  
20 then, what do you want to do in terms of scheduling going  
21 forward?

22 MR. BARKET: I suppose five weeks, I don't know how  
23 long the trial is going to take.

24 THE COURT: I know, Gerber's promised two weeks.

25 MR. BARKET: Oh, great, so we'll come back in three.

1 THE COURT: Two weeks.

2 MR. BARKET: So maybe in about a month or so, five  
3 weeks, towards the end of May or --

4 MS. COMEY: That should be fine, your Honor.

5 MR. BARKET: The end of May or beginning of June.

6 THE COURT: See what we can do.

7 How about June 7 at three o'clock?

8 MR. BARKET: I'm sorry, your Honor.

9 THE COURT: June 7 at 3. We're on trial.

10 MR. BARKET: What day of the week is that?

11 THE COURT: It's a Wednesday, June 7 is a Wednesday.

12 MR. BARKET: It works for me. I think that's fine.

13 Trying to think of kindergarten graduation.

14 THE COURT: We might run into the after party.

15 MR. BARKET: Yes.

16 THE COURT: Hey, look, if it turns out not to work,  
17 just give us a call.

18 MR. BARKET: I think the 7th is fine.

19 THE COURT: All right. Does that work for you all?

20 MS. COMEY: Yes, your Honor.

21 THE COURT: Because you'll be done and rested after  
22 your two-week trial.

23 MR. GERBER: After the two-week trial, yes.

24 THE COURT: We'll get together June 7th.

25 Mr. Barket, you'll confirm if that works for you.

1           MR. BARKET: I'll leave it at June 7. If there's a  
2 problem, I'll call.

3           THE COURT: June 7 at three o'clock. Any objection  
4 to excluding time until then?

5           MR. BARKET: No.

6           THE COURT: Okay. Then I'll prospectively exclude  
7 time from today until June 7, finding it's in the interest  
8 justice to do so. That finding the based on the fact that,  
9 while the government has produced a substantial amount of  
10 discovery, there are still some lab reports that await. The  
11 government has indicated it is pushing as hard as it can, and I  
12 accept that representation. And it sounds like there may be a  
13 few other issues to be worked out among counsel. So I  
14 therefore find that the interest of justice from this exclusion  
15 outweigh Mr. Tartaglione's and the public's interest in a  
16 speedy trial. The finding is made pursuant to 18 U.S.C.,  
17 Section 3161(h) (7) (A).

18           Are there any other issues we need to work out?

19           MR. BARKET: No. Obviously, we don't want to take up  
20 the Court's time in talking to Nick up here.

21           Does he get brought back downstairs? Downstairs?

22           That's it.

23           THE COURT: So you can talk to him downstairs.

24           MR. BARKET: That's fine.

25           THE COURT: Anything else then?

1 MR. BARKET: No.

2 THE COURT: Anything else?

3 MR. RICO: No, your Honor.

4 MS. COMEY: Not from the government, your Honor.

5 THE COURT: Enjoy the rest of day. Good to see you

6 all.

7 (Proceedings concluded)

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